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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/581,818      | 06/19/2000  | YOSHIHIRO SAKAI      | 000754              | 6723             |

23850 7590 03/15/2002

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| EXAMINER |
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KAO, CHIH CHENG G

| ART UNIT | PAPER NUMBER |
|----------|--------------|
| 2882     |              |

DATE MAILED: 03/15/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/581,818

Applicant(s)

SAKAI ET AL.

Examiner

Chih-Cheng Glen Kao

Art Unit

2882

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 4 is/are rejected.
- 7) ☒ Claim(s) 2, 3, 5 and 6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 June 0200 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.

- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Citizen (JP 4-120322) in view of Okutani et al. (US Patent 5,091,643). Citizen shows the a plurality of light receiving windows or portions wherein the length of the windows or portions in the radial direction is set so as to gradually become shorter from the inner to outer peripheral side; and the opening are at the inner side is set to e equal to that at the outer side (Fig. 1). However, Citizen does not seem to specifically disclose a rotary encoder with a rotary disk receiving light from a light emitting element to send to a light receiving element, wherein a fixed slit is disposed between the rotary disk and light receiving element so that a plurality of windows or portions is disposed to have a phase difference at different positions in the radial direction of the disk.

Okutani et al. teaches the rotary encoder with a rotary disk receiving light from a light emitting element (Fig. 3, #1) to send to a light receiving element (Fig. 3, #5), wherein a fixed slit (Fig. 3, #4) is disposed between the rotary disk (Fig. 3, #3) and light receiving element so that a plurality of windows or portions is disposed to have a phase difference at different positions in the radial direction of the disk (Fig. 2).

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It would have been obvious, to one having ordinary skill in the art at the time the invention was made, to have the encoder with the windows or portions having the phase difference of Okutani et al. with the device of Citizen, since one would be motivated have the phase difference to compare the lower and high-order data in adjacent pairs of the position data to correct the higher-order position data and thereby detect an absolute position to ensure a high-resolution and high-accuracy absolute position detection and prevent the occurrence of any detection error even if the relative positional accuracy of binary code patterns of varying orders or positions are comparatively low as shown by Okutani et al. (col. 2, lines 33-52).

***Allowable Subject Matter***

2. Claims 2, 3, 5, and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: Regarding claims 2 and 5, prior art does not specifically disclose or fairly suggest the total sum of the opening areas of light receiving windows or portions of the same phase and the total sum of the light receiving windows of the other phase are set to be equal to each other in combination with all the limitations in the claim, and respective base claim.

*Response to Arguments*

3. In light of the Amendment filed January 10, 2002, the objection to the specification and the rejections of claims 5 and 6 under 35 U.S.C. 112, in the Office Action dated September 7, 2001, have been withdrawn.

4. Applicant's arguments with respect to claims 1 and 4 have been considered but are moot in view of the new ground(s) of rejection.

*Conclusion*


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chih-Cheng Glen Kao whose telephone number is (703) 605-5298. The examiner can normally be reached on M - Th (8 am to 5 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Kim can be reached on (703) 305-3492. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



gk  
March 11, 2002



ROBERT H. KIM  
SUPERVISORY PATENT EXAMINER  
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